

**POLK COUNTY
LAND USE HEARING OFFICER
STAFF REPORT**

| | | | |
|------------------|--------------------------|---------------------|--|
| DRC Date | February 12, 2026 | CASE #: | LDLVAR-2026-4 Indian Creek ADU Variance |
| LUHO Date | March 26, 2026 | LDC Section: | Section 206.A |

Request: The applicant is requesting a variance to allow an ADU to be larger than 1,000 sq. ft.

Applicant: Megan Ray

Property Owner: Anthony Vincent Ginevra, Michelle Lynn Loyd

Location: 6935 Indian Creek Park Dr, south of Indian Sky Cir, east of Indian Creek Park Blvd, south of the City of Lakeland in Section 20, Township 29, Range 24.

Parcel ID#: 242920-286556-000010

Size: ±0.70 acres

Land Use Designation: Residential Low-1 (RL-1)

Development Area: Urban Growth Area (UGA)

Case Planner: Aleya Inglima, Planner II

Summary:

The applicant is seeking a variance to allow an accessory structure to be larger than 1,000 sq. ft. Section 206.A.2 of the Land Development Code (LDC) limits ADUs to less than the size of the primary residence and not to exceed 1,000 square feet of heated floor space. The applicant requests to add on to an existing 1,000 sq ft garage. The garage will convert to a 2,524 square feet ADU which exceeds the allowable square footage per Section 206.A.2 of the LDC. The existing dwelling is 4,479 square-foot under roof. The proposed ADU is 44% smaller, thereby adhering to the subordinate and incidental characteristics required for accessory uses. Additionally, the request meets all standards outlined for ADUs in LDC Section 206.A, which includes less than 0.65 total ISR and being setback behind the forward building line of the principal dwelling unit.

Many lots in this neighborhood have large accessory structures due to the large homes on lots over an acre. This ample space allows the ADU to easily satisfy all accessory structure setbacks required in the RL-1 land use district. The primary home was built in 2019 and met setbacks at the time. Staff find that the request meets the following criteria listed in Section 931:

- **The request will not be injurious to the area involved or otherwise detrimental to the public welfare** because the ADU will meet the required accessory structure setbacks, will stay out of the rear landscape easement, and has received HOA approval.

- **Granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant** as many of the homes in this neighborhood have large accessory structures exceeding Section 206 due to the large homes on lots over an acre.

Development Review Committee

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** of the Polk County Land Development Code.

Development Review Committee Recommendation: Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR-2026-4**, with the following conditions:

CONDITIONS OF APPROVAL:

1. A variance to the standards in Section 206.A.2, of the Land Development Code (LDC) shall be granted to allow an accessory structure up to 2,524 sq. ft.
2. This variance does not authorize any encroachments into easements and the applicant shall be responsible for making certain there are no encroachments unless approval is granted by the easement holder and/or any applicable permitting agencies. The property owner(s) is also responsible for compliance with any restrictions of record pertaining to lots and/or land and this approval shall not be used to supersede authority over those restrictions.

GENERAL NOTES

NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other parties at a public hearing.

NOTE: Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with LDC.

NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.

NOTE: All written commitments made in the application and subsequent submission of information made during the application review process, which are on file with the Land Development Division, shall be considered to be binding upon the applicant, provided such commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.

NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

DEMONSTRATIONS OF THE CRITERIA FOR GRANTING VARIANCES SUMMARIZED BELOW:

1. *Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

The applicant, on behalf of the property owner, requests to add on to an existing 1,000 sq ft garage. The garage will convert to a 2,524 square feet ADU which exceeds the allowable 1,000 square feet per Section 206.A.2 of the LDC. The existing home is approximately 4,479 square feet. Under roof, the ADU will remain subordinate in size to the primary residence and smaller by about 44%. The applicant's property is approximately 0.70 acres, and the addition of the new 2,524 sq. ft. ADU will increase the ISR to about 5%, but it will not exceed 65% maximum permitted on the property. The lot size is sufficient to accommodate an ADU of this square footage. Many lots in this neighborhood have large accessory structures. This ample space allows the ADU to easily satisfy all accessory structure setbacks required in the RL-1 land use district. The subject site is a legal lot of record, where the primary home was built in 2019 and met accessory structure setbacks at the time. The ADU will be setback to the side rear the primary residential building line as required in LDC Section 206.A.4. The ADU will also stay out of the rear landscape easement. For these reasons, approval will not be injurious to the area involved or otherwise detrimental to the public welfare.

2. *Whether special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district;*

The subject property is Lot 1, part of the Indian Creek Park Plat. The lots within Indian Creek Park are generally larger than those of the homes directly to the north. As a result of the larger lot sizes, many of the single-family homes exceed 4,000 square feet, which often results in accessory structures larger than 1,000 square feet.

3. *Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;*

The existing home and detached garage on the subject site were constructed in 2019 and met the required setbacks. The request is to take the existing 1,000 sq ft detached garage and convert it to a 2,524 ADU. The ADU will take access using the existing driveway access from the primary home. According to the applicant, the ADU will be designed to be architecturally consistent with the primary residence and neighboring properties, maintaining the established character of the neighborhood. The ADU will comply with all applicable building and fire requirements aside from the requested size variance. The property is large enough to construct an ADU such as this. Meanwhile many of the homes in this neighborhood have large accessory structures exceeding 1,000 sq. ft. due to the large homes on lots over an acre.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

This will not confer on the applicant any special privilege that is denied by the provisions of this Code. ADUs are permitted as accessory uses to single-family detached homes and mobile homes in all residential districts and lots of record, so long as they meet setback, dimensional, and locational requirements. According to Section 206.A.3.c of the LDC, the ADU must meet

primary structure setbacks when it exceeds 1,000 square feet. The ADU will be in line with the existing garage. In addition to this, the primary residence will remain forward of the building line of the proposed ADU.

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

The owners are seeking to designate their existing garage as an accessory dwelling unit (ADU) that is approximately larger than the County’s current ADU maximum standard of 1,000 sq ft. In terms of total under roof, the proposed ADU will be almost 44% smaller than the existing primary residence. This still falls into the confines of the definition of accessory (incidental and subordinate).

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Granting this variance will not result in a change of land use. A slightly larger than standard accessory dwelling unit (ADU) will not alter the residential use of this property.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance request will not change the size, shape, or use of the property.

8. *Whether that the granting of the variance does not circumvent a condition or the intent of a condition placed on a development by the Planning Commission or the BoCC.*

Granting this request will not circumvent a condition or the intent of a condition placed on the development by the Planning Commission or the BoCC.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The table to follow provides details of abutting structures and lot parameters.

Table 1

| | | |
|---|--|---|
| Northwest: RL-1 3,473 sq. ft. single-family home Lot 17 Indian Sky Estates ±0.37 acres | North: RL-1 3,736 sq. ft. single-family home Lot 16 Indian Sky Estates ±0.37 acres | Northeast: RL-1 3,168 sq. ft. single-family home Lot 15 Indian Sky Estates ±0.36 acres |
| West: RL-1 4,807 sq. ft. single-family home Lot 20 Indian Creek Park ±0.60 acres | Subject Property: RL-1 4,479 sq. ft. single-family home Lot 1 Indian Creek Park ±0.70 acres | East: RL-1 4,474 sq. ft. single-family home Lot 2 Indian Creek Park ±0.64 acres |
| Southwest: RL-1 6,062 sq. ft. single-family home Lot 6 Indian Creek Park ±0.66 acres | South: RL-1 4,768 sq. ft. single-family home Lot 5 Indian Creek Park ±0.60 acres | Southeast: RL-1 5,340 sq. ft. single-family home Lot 4 Indian Creek Park ±0.61 acres |

The subject property is Lot 1 part of the Indian Creek Park Plat. The lot is surrounded by single-family residential homes. This includes the Indian Sky Estates subdivision to the north which consists of 32 homes platted in 2002. The property is approximately 0.70 acres in the RL-1 land use district.

Comments from other Governmental Agencies: None.

Exhibits:

Exhibit 1 – Location Map

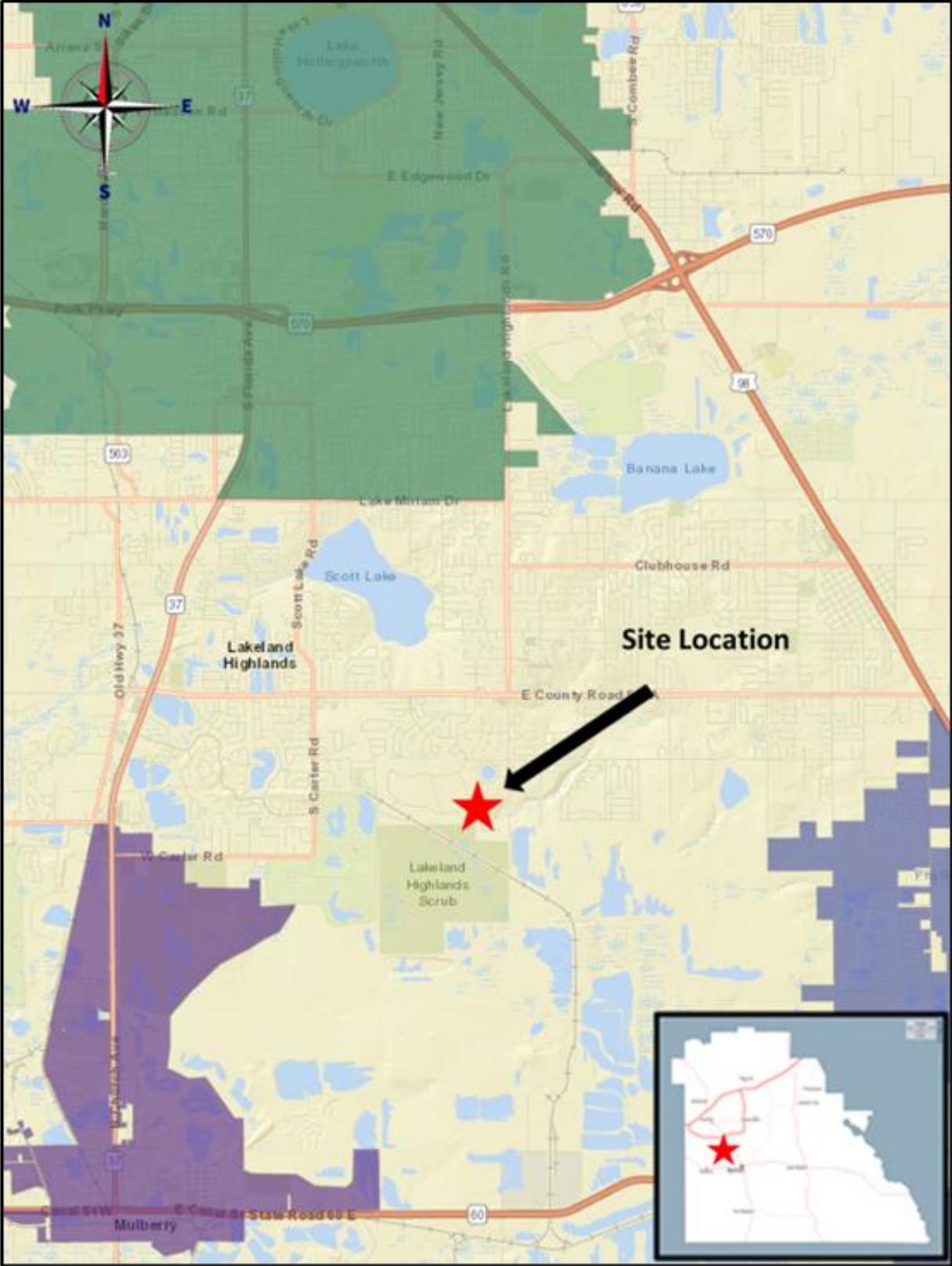
Exhibit 2 – Future Land Use

Exhibit 3 – 2025 Satellite Image (Context)

Exhibit 4 – 2023 Aerial Photo (Close-up)

Exhibit 5 – Site Plan

Exhibit 6 – Applicant’s Justification



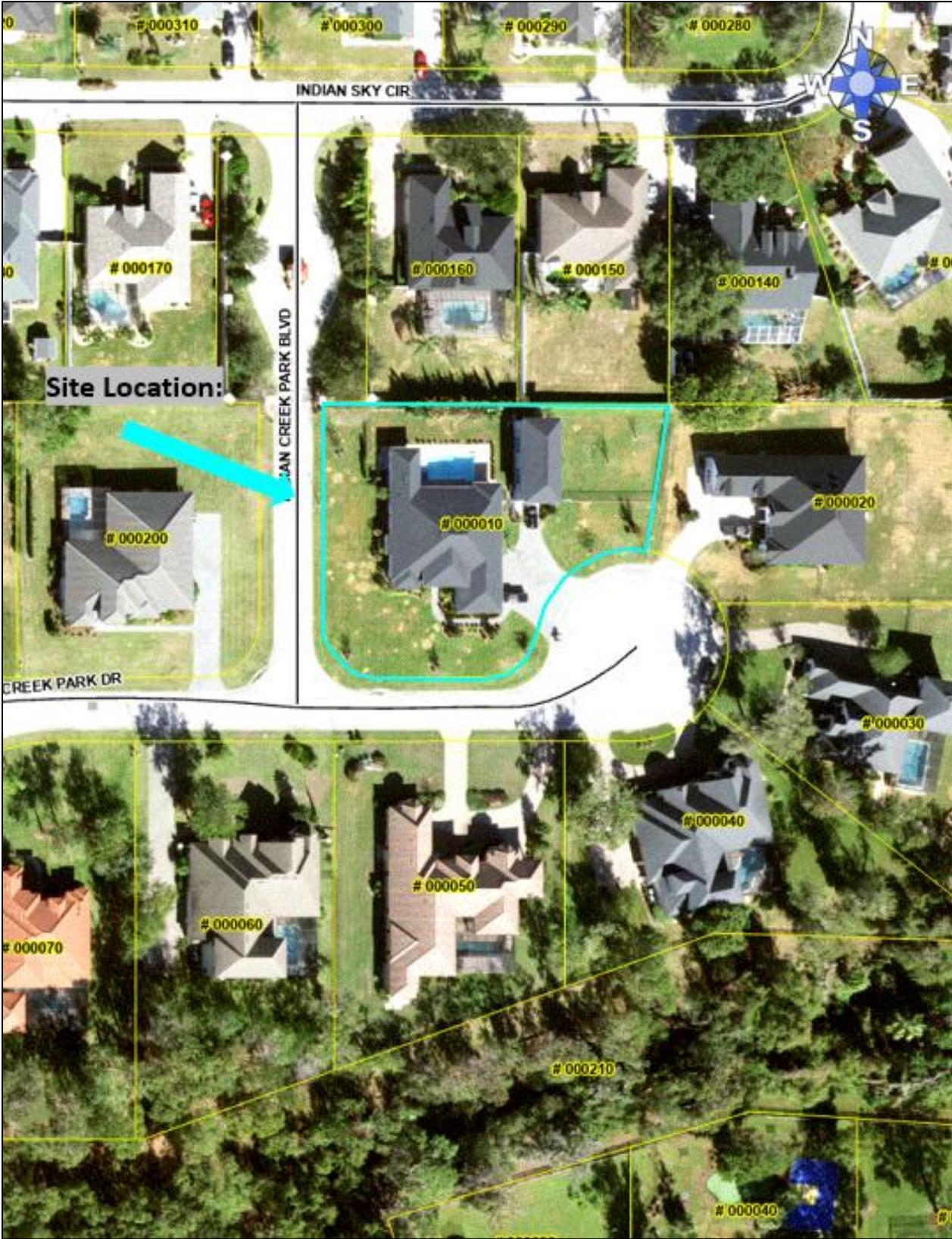
Location Map



Future Land Use Map



2025 Satellite Image (Context)



2023 Aerial Photo (Close-up)

CRITERIA FOR GRANTING VARIANCE

Will the variance be injurious to the area involved or detrimental to the public welfare?

The requested variance will not be injurious to the surrounding area nor detrimental to the public welfare. The proposed Accessory Dwelling Unit (ADU) is designed to be architecturally consistent with the primary residence and neighboring properties, maintaining the established character of the neighborhood. The ADU will comply with all applicable building, fire, life-safety, and zoning requirements aside from the requested size variance.

What special conditions exist that are peculiar to the land, structure, or building involved?

The property presents unique conditions related to lot size, configuration, and existing development, which allow the ADU to be constructed in a manner that remains visually and functionally compatible with surrounding homes despite exceeding the 1,000 sq ft threshold.

Additionally, the size of the ADU is driven by practical design constraints, including compliance with setback requirements, placement of existing structures, and the need to provide a functional and code-compliant living space. The request is not based on personal preference, but rather on the physical characteristics of the property and the intent to develop the site responsibly.

When did you buy the property and when was the structure built? Permit Number?

The property was purchased in 2018. The primary residence was constructed in 2019 under Permit Number BR-2018-6983, in compliance with all applicable codes and regulations at the time of construction.

What is the hardship if the variance is not approved?

If the variance is not approved, the property owner would experience unnecessary and undue hardship, as strict adherence to the 1,000 sq ft limitation would prevent the reasonable use of the property for an ADU as intended.

Without the variance, the ADU would require significant redesign that could compromise functionality, accessibility, and livability, or result in a structure that does not adequately meet the intended residential needs. This hardship is not self-created, but rather a result of zoning limitations applied to the existing conditions of the property.

Is this the minimum variance required for the reasonable use of the land?

Yes. The proposed ADU size represents the minimum variance necessary to allow reasonable use of the property. The design has been carefully evaluated to ensure the ADU remains subordinate to the primary residence while providing adequate living space. Any further reduction in size would negatively impact the functionality of the dwelling and defeat the purpose of the ADU.

Do you have Homeowners Association approval for this request?

Yes. The Homeowner's Association has reviewed and approved the proposed ADU and the requested variance. Documentation is attached

Applicant's Justification